# UNITED STATES DISTRICT COURT

for the

Eastern District of Missouri

United States of America
v.
DANIEL J. O'CONNELL
*Defendant*

Case No. 4:16MJ7252 SPM

## DETENTION ORDER PENDING TRIAL

After conducting a detention hearing under the Bail Reform Act, 18 U.S.C. § 3142(f), I conclude that these facts require that the defendant be detained pending trial.

### Part I—Findings of Fact

☐ (1) The defendant is charged with an offense described in 18 U.S.C. § 3142(f)(1) and has previously been convicted of ☐ a federal offense ☐ a state or local offense that would have been a federal offense if federal jurisdiction had existed - that is

☐ a crime of violence as defined in 18 U.S.C. § 3156(a)(4)or an offense listed in 18 U.S.C. § 2332b(g)(5) for which the prison term is 10 years or more.

☐ an offense for which the maximum sentence is death or life imprisonment.

☐ an offense for which a maximum prison term of ten years or more is prescribed in ________________ ________________.*

☐ a felony committed after the defendant had been convicted of two or more prior federal offenses described in 18 U.S.C. § 3142(f)(1)(A)-(C), or comparable state or local offenses:

☐ any felony that is not a crime of violence but involves:

☐ a minor victim

☐ the possession or use of a firearm or destructive device or any other dangerous weapon

☐ a failure to register under 18 U.S.C. § 2250

☐ (2) The offense described in finding (1) was committed while the defendant was on release pending trial for a federal, state release or local offense.

☐ (3) A period of less than five years has elapsed since the ☐ date of conviction ☐ the defendant's release from prison for the offense described in finding (1).

☐ (4) Findings Nos. (1), (2) and (3) establish a rebuttable presumption that no condition will reasonably assure the safety of another person or the community. I further find that the defendant has not rebutted this presumption.

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*Insert as applicable: (a) Controlled Substances Act (21 U.S.C. § 801 *et seq.*); (b) Controlled Substances Import and Export Act (21 U.S.C. § 951 *et seq.*); or (c) Section 1 of Act of Sept. 15, 1980 (21 U.S.C. § 955a).

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### Alternative Findings (A)

☑ (1) There is probable cause to believe that the defendant has committed an offense

☐ for which a maximum prison term of ten years or more is prescribed in 21 U.S.C. §801 .

☐ under 18 U.S.C. § 924(c).

☑ involving a minor victim under 18 U.S.C. § 2251, 2252A .

☑ (2) The defendant has not rebutted the presumption established by finding 1 that no condition will reasonably assure the defendant's appearance and the safety of the community.

### Alternative Findings (B)

☐ (1) There is a serious risk that the defendant will not appear.

☐ (2) There is a serious risk that the defendant will endanger the safety of another person or the community.

See statement of reasons.

### Part II— Statement of the Reasons for Detention

I find that the testimony and information submitted at the detention hearing establishes by ☑ clear and convincing evidence ☐ a preponderance of the evidence that

no condition or combination of conditions will reasonably assure the safety of the community or defendant's appearance. The undersigned adopts the facts contained in the Pretrial Services Report, as amended on the record at the hearing (Doc. 8). Defendant was accused of possessing child pornography in 2010 and was offered pretrial diversion in June 2015. Conditions imposed included restrictions on computer use and access, therapy, and compliance with the law. Evidence submitted at the detention hearing reveals that beginning in November 2015, while Defendant was under court supervision, a computer in Defendant's home was used to upload images flagged as child pornography. Similar uploads were flagged in June and July, 2016. (cont'd)

### Part III—Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or a designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or held in custody pending appeal. The defendant must be afforded a reasonable opportunity to consult privately with defense counsel. On order of United States Court or on request of an attorney for the Government, the person in charge of the corrections facility must deliver the defendant to the United States marshal for a court appearance.

Date: 09/27/2016

[signature]

*Judge's Signature*

UNITED STATES MAGISTRATE JUDGE

*Name and Title*

*Insert as applicable: (a) Controlled Substances Act (21 U.S.C. § 801 *et seq.*); (b) Controlled Substances Import and Export Act (21 U.S.C. § 951 *et seq.*); or (c) Section 1 of Act of Sept. 15, 1980 (21 U.S.C. § 955a).

(cont'd) Some of the images that were uploaded depicted the lascivious display of genitals by a minor. Evidence proffered at the detention hearing further demonstrated that Defendant spends a lot of time at home alone as his wife is employed and is frequently away from home. Evidence also demonstrated that although Defendant was not authorized to use his wife's devices, Defendant did access and use his wife's devices. The United States' investigation of the events that occurred in November 2015 and beyond continues and Defendant may be charged as a result of the evidence presented at the detention hearing. Although Defendant suggests that the Court could impose conditions prohibiting him from accessing computers, location monitoring, and home detention, the record as a whole demonstrates that conditions such as location monitoring and/or home detention do not address the danger to the community posed by Defendant's pretrial release;and, as to the other conditions proposed by Defendant, Defendant was previously subjected to virtually identical conditions and it appears from the record as a whole that he was either unable or unwilling to comply with those conditions.